

FEDERAL COMMUNICATIONS COMMISSION
445 TWELFTH STREET, SW
WASHINGTON, DC 20554

FEB 27 2009

MEDIA BUREAU
AUDIO DIVISION
TECHNICAL PROCESSING GROUP
APPLICATION STATUS: (202) 418-2730
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Sebago Broadcasting Company, L.L.C.
6139 Franklin Park Road
McLean, VA 22101

Re: Sebago Broadcasting Company L.L.C.
WCTG, Chincoteague, VA
Facility ID No. 88405
File No. BPH-20061114ACF

Dear Applicant:

This letter refers to: (1) the above-captioned minor change application to a licensed facility as amended to specify the new community of license at Eden, MD; (2) the April 2, 2007 Informal Objection filed by Bay Broadcasting, Inc. ("Bay Broadcasting"); (3) the February 15, 2008 letter from the Audio Division; and (4) all other related pleadings.

The legal review of the application as originally filed revealed that the proposed facility failed to comply with 47 C.F.R. Section 73.3573(g)(1).¹ Specifically, the application, by removing the sole service from Chincoteague, VA failed to demonstrate that the proposed community of license change constituted a preferential arrangement of allotments or assignments under Section 307(b) of the Communications Act of 1934, as amended (47 U.S.C. Section 307(b)).

The February 15, 2008 letter from the Audio Division stated that pursuant to Section 73.3522 of the Commission's Rules², "... an applicant whose application is found to meet the minimum filing requirements but nevertheless is not complete and acceptable shall have the opportunity in the 30-day period specified in the FCC staff's deficiency letter to correct all deficiencies in the tenderability and acceptability of the underlying application, including any deficiency not specifically identified by the staff." Additionally, Section 73.3564 of the Commission's Rules³ states that "[a]pplications with uncorrected tender and/or acceptance defects remaining after the opportunity for corrective amendment will be dismissed with no further opportunity for amendment." See Appendix B in the Report and Order in MM Docket No. 91-347. The February 15, 2008 letter provided WCTG its 30 day period to submit a corrective amendment pursuant to Section 73.3522(c)(2). In

¹ 47 C.F.R. § 73.3573(g)(1)

² 47 C.F.R. § 73.3522.

³ 47 C.F.R. § 73.3564.

response to this letter, the applicant filed many requests for extension of time. These requests state that the resolution of multiple mutually exclusive applications in MX Group #439 of the October 2007 filing window for non-commercial educational FM stations will eventually provide service to Chincoteague, VA and thus allow the applicant to change communities. However, this application was not filed contingently with those pending non-commercial educational applications.⁴ Therefore, application BPH-20061114ACF, remains in violation of Section 73.3573(g)(1) after the 30 day period to file a corrective amendment and will be dismissed.

In light of the above, application BPH-20061114ACF is unacceptable for filing and is **HEREBY DISMISSED**. The informal objections filed by Bay Broadcasting and other related pleadings are also **HEREBY DISMISSED AS MOOT**. This action is taken pursuant to 47 C.F.R. § 0.283.

Sincerely,

A handwritten signature in blue ink, appearing to read "Rodolfo F. Bonacci".

Rodolfo F. Bonacci
Assistant Chief
Audio Division
Media Bureau

cc: Gammon & Grange, P.C.
Thompson Hine LLP

⁴ A waiver of the Commissions contingent application rule would be necessary to withhold processing of the WCTG application until the MX Group is resolved. The proposed facility cannot be granted until a non-commercial application for Chincoteague is granted in the future. With the exception of certain narrowly defined filings, the Commission's rules prohibit generally the filing of contingent applications. Such proposals can frustrate the introduction of new and improved services. Processing such applications also can result in the expenditure of limited staff resources on proposals that may never be implemented. WCTG has neither sought nor demonstrated that it has cleared the high hurdle for the required waiver. We conclude that a waiver in the instant circumstances would be contrary to the public interest.